

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**TERESA ANDRE-HOPPER,**

**Plaintiff,**

**v.**

**OPTIV SECURITY INC.,**

**Defendant.**

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**CIVIL ACTION NO. 1:25-cv-00646**

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**APPENDIX IN SUPPORT OF DEFENDANT’S NOTICE OF REMOVAL**

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**TABLE OF CONTENTS**

| <b>EXHIBIT</b>                                  | <b>DATE</b>       | <b>DESCRIPTION</b>                                   |
|---|-------------------|--|
| <i>State Court Filings</i>                      |                   |  |
| <b>1</b>  |                   | <b>Docket Sheet</b>                                  |
| <b>2</b>  | <b>04/03/2025</b> | <b>Plaintiff’s Original Petition</b>                 |
| <b>3</b>  | <b>04/28/2025</b> | <b>Defendant’s Original Answer</b>                   |
| <i>Supplemental Evidence Supporting Removal</i> |                   |  |
| <b>4</b>  | <b>04/28/2025</b> | <b>Declaration of Stacy Nurnberg</b>                 |
| <b>5</b>  | <b>04/22/2025</b> | <b>Plaintiff’s W-4 Form (redacted)</b>               |
| <b>6</b>  | <b>03/06/2025</b> | <b>Plaintiff’s Pre-Suit Demand Letter (redacted)</b> |
| <b>7</b>  | <b>04/28/2025</b> | <b>Defendant’s Colorado Registration</b>             |

Dated: April 30, 2025

Respectfully submitted,

**POLSINELLI PC**

/s/ Derek A. McKee

**Derek A. McKee**

Texas State Bar No. 24108765

[dmckee@polsinelli.com](mailto:dmckee@polsinelli.com)

**Tiffani A. Skroch**

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- and -

**Robert J. Hingula\***

(\**pro hac vice* forthcoming)

Missouri State Bar No. 24108765

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Kansas City, Missouri 64112

Telephone: (816) 753-1000

Facsimile: (816) 753-1536

Email: [rhingula@polsinelli.com](mailto:rhingula@polsinelli.com)

**ATTORNEYS FOR DEFENDANT OPTIV  
SECURITY INC.**

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b)(2)(E) and (b)(3), I certify a true and correct copy of the foregoing document and all attachments/exhibits was filed electronically on April 30, 2025. Parties may access this filing through the Court's system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Derek A. McKee

Derek A. McKee

# **EXHIBIT 1**

200th District Court

Case Summary

Case No. D-1-GN-25-002344

|   |   |   |
|---|---|---|
| TERESA ANDRE-HOPPER vs. OPTIV SECURITY INC. | § | Location: 200th District Court          |
|   | § | Judicial Officer: 200TH, DISTRICT COURT |
|   | § | Filed on: 04/03/2025                    |

Case Information

Case Type: Debt/Contract - Debt/Contract  
Case Status: 04/03/2025 Open

Assignment Information

Current Case Assignment  
Case Number D-1-GN-25-002344  
Court 200th District Court  
Date Assigned 04/03/2025  
Judicial Officer 200TH, DISTRICT COURT

Party Information

|           |                      |                                     |
|-----------|----------------------|-------------------------------------|
| Plaintiff | ANDRE-HOPPER, TERESA | Bachop, Matthew Bradley<br>Retained |
| Defendant | OPTIV SECURITY INC.  | MCKEE, DEREK<br>Retained            |

Case Events

04/03/2025 EXPEDITED ORIG PET RULE 169 (OCA)  
*PLAINTIFF S ORIGINAL PETITION*  
Party: Plaintiff ANDRE-HOPPER, TERESA

04/28/2025 ORIGINAL ANSWER/WAIVER  
*DEFENDANT S ORIGINAL ANSWER*  
Party: Defendant OPTIV SECURITY INC.

# **EXHIBIT 2**

CAUSE NO. \_\_\_\_\_

TERESA ANDRE-HOPPER,  
*Plaintiff,*

v.

OPTIV SECURITY INC.,  
*Defendant.*

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE COURT:

COMES NOW PLAINTIFF, Teresa Andre-Hopper, complaining of the conduct of Defendant, and for cause of action respectfully shows as follows:

**EXPEDITED ACTION, DISCOVERY LEVEL 1**  
**I.**

Plaintiff intends for this suit to be conducted under the Expedited Actions process set out in TEX. R. CIV. P. 169. Plaintiff affirmatively pleads that she seeks only monetary relief aggregating \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney fees and costs. As a result, Plaintiff intends that discovery in this case be conducted under Level 1, pursuant to TEX. R. CIV. P. 190.2.

**PARTIES**  
**II.**

Plaintiff Teresa Andre-Hopper is an individual Texas resident who was employed by Defendant in Travis County, Texas.

**III.**

Defendant Optiv Security Inc. is a Delaware corporation registered to do business in Texas. Defendant may be served by serving its registered agent for service of process, Corporation Service Company, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin Texas 78701.

**JURISDICTION AND VENUE**  
**IV.**

The Court has jurisdiction over the case pursuant to TEX. CONST. art. V, § 8; TEX. GOV'T CODE §§ 24.007–24.008. Venue is proper in this Court pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002. As is required by TEX. R. CIV. P. 47, Plaintiff pleads that she seeks, at the current time, only monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney fees and costs.

**FACTUAL ALLEGATIONS**  
**V.**

Ms. Andre-Hopper worked as a Senior Client Manager for Defendant before being forced to resign her position because of sexual harassment and retaliation that she was subjected to by an Area Vice President. Ms. Andre-Hopper was a profitable employee for Defendant.

**VI.**

Defendant agreed to pay Ms. Andre-Hopper commissions on her sales under a Compensation Plan that provides that employees will be paid on “Approved Sales Orders” as of the date of the termination of their employment. The Compensation Plan states that Approved Sales Orders will be paid after they have been fulfilled by the Company and invoiced to the client.

**VII.**

Upon Ms. Andre-Hopper's termination in May 2023, Defendant paid her commissions only on orders that were payable (i.e., orders that had been fulfilled and invoiced) at the time of her termination, but Defendant refused and continues to refuse to pay Ms. Andre-Hopper for other Approved Sales Orders that existed on the date of her termination and became payable after her termination, as required by the Plan.



**VIII.**

Defendant has falsely claimed that “Upon termination, any remaining held balance that is not deemed ‘earned’ by the employee’s last date of employment is dissolved and not paid,” although the Compensation Plan does not contain any such provision.

**CAUSE OF ACTION – BREACH OF CONTRACT  
IX.**

Ms. Andre-Hopper brings a claim for breach of contract. By failing to pay her the promised compensation, Defendant breached its employment contract with Ms. Andre-Hopper. Specifically, she is entitled to unpaid commissions.

**RELIEF SOUGHT  
X.**

Ms. Andre-Hopper is entitled to her full breach-of-contract damages under her contract with Defendant, including the commissions owed under the agreement. Further, because of Defendant’s illegal conduct, Ms. Andre-Hopper has been forced to retain legal counsel to protect her legal rights. Plaintiff is entitled to recover from Defendant her reasonable and necessary attorney fees and expenses under Chapter 38 of the Texas Civil Practice and Remedies Code.

**XI.**

Ms. Andre-Hopper has fulfilled all jurisdictional prerequisites to bringing this suit and obtaining the relief requested in this pleading.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendant be cited to appear and answer herein, and that upon final trial hereof, Plaintiff be accorded damages as sought herein, as well as reasonable and necessary attorney fees and expenses, court costs, pre- and post-judgment interest, and all such other and further relief, at law or in equity, to which she may show herself justly entitled.

*Respectfully submitted,*

DEATS DURST & OWEN, PLLC

\_\_\_\_\_  
/s/ Matt Bachop

Matt Bachop

TBN: 24055127

mbachop@ddollaw.com

8140 N Mopac Expy, Suite 4-250

Austin, Texas 78759

(512) 474-6200

FAX (512) 474-7896

Attorney for Plaintiff

# **EXHIBIT 3**

**CAUSE NO. D-1-GN-25-002344**

|                             |   |   |
|-----------------------------|---|---|
| <b>TERESA ANDRE-HOPPER,</b> | § | <b>IN THE DISTRICT COURT OF</b>           |
|                             | § |   |
| <i>Plaintiff,</i>           | § |   |
| <b>v.</b>                   | § | <b>TRAVIS COUNTY, TEXAS</b>               |
|                             | § |   |
| <b>OPTIV SECURITY INC.,</b> | § |   |
|                             | § |   |
| <i>Defendant.</i>           | § | <b>200<sup>TH</sup> JUDICIAL DISTRICT</b> |

**DEFENDANT’S ORIGINAL ANSWER**

Defendant Optiv Security Inc. (“Optiv”) files this *Original Answer* in response to *Plaintiff’s Original Petition* (the “Petition”), commenced by Plaintiff Teresa Andre-Hopper (“Plaintiff”) and would respectfully show the Court as follows:

**I.**  
**GENERAL DENIAL**

Pursuant to TEX. R. CIV. P. 92, Optiv enters a general denial, denying each and every, all and singular, the allegations, charges, and claims contained in the *Petition* and demands strict proof thereof.

**II.**  
**AFFIRMATIVE DEFENSES**

Subject to and without waiver of the foregoing general denial, Optiv asserts the following affirmative defenses:

1. Statute of Limitations – Some or all of the relief that Plaintiff seeks is barred by the statute of limitations.
2. Statute of Frauds – To the extent that Plaintiff’s breach of contract claim is predicated on a purported verbal agreement, some or all of the relief that Plaintiff seeks is barred by the statute of frauds.

3. Unclean Hands – Some or all of the relief Plaintiff seeks is barred by the doctrine of unclean hands.

4. Failure to Mitigate – Some or all of the relief Plaintiff seeks is barred by her failure to mitigate her damages, if any.

5. Waiver – Some or all of the relief Plaintiff seeks is barred by her prolonged silence or inaction in asserting an allegedly known right.

6. Modification – Some or all of the relief Plaintiff seeks is barred by the doctrine of modification.

7. Ratification. Pleading further, if same be necessary, some or all of the relief that Plaintiff seeks is barred by the doctrine of ratification.

8. Accord & Satisfaction. Pleading further, if same be necessary, some or all of the relief that Plaintiff seeks is barred by the doctrines of accord and satisfaction.

9. Offsets. Pleading further, if same be necessary, Optiv is entitled to an offset against or reduction of any monetary award, if any, based on any monies that Plaintiff has already recovered for alleged damages, if any.

10. Conditions Precedent – Some or all of the relief Plaintiff seeks is barred because of Plaintiff's failure to perform all conditions precedent, including but not limited to her obligations under Tex. Civ. Prac. & Rem. Code § 38.002.

### **III. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Optiv respectfully requests the following:

- (i) Plaintiff take nothing in this action;
- (ii) Plaintiff's claims be, in all things, dismissed with prejudice;
- (iii) Optiv be, in all things, discharged;

- (iv) Costs be taxed against Plaintiff; and
- (v) Such other and further relief, in law or equity, to which Optiv is justly entitled.

Dated: April 25, 2025

Respectfully submitted,

**POLSINELLI PC**

/s/ Derek A. McKee

**Derek A. McKee**

Texas State Bar No. 24108765

[dmckee@polsinelli.com](mailto:dmckee@polsinelli.com)

**Tiffani A. Skroch**

Texas State Bar No. 24143413

[tskroch@polsinelli.com](mailto:tskroch@polsinelli.com)

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- and -

**Robert J. Hingula\***

(\**pro hac vice* forthcoming)

Missouri State Bar No. 24108765

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[rhingula@polsinelli.com](mailto:rhingula@polsinelli.com)

**ATTORNEYS FOR DEFENDANT OPTIV  
SECURITY INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing was served on all lead counsel of record in accordance with the Texas Rules of Civil Procedure on April 25, 2025 via Texas eFile.

/s/ Derek A. McKee

Derek A. McKee

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Nikki Vazquez on behalf of Derek McKee  
 Bar No. 24108765  
 nvazquez@polsinelli.com  
 Envelope ID: 100140047  
 Filing Code Description: Answer/Response  
 Filing Description: DEFENDANT'S ORIGINAL ANSWER  
 Status as of 4/28/2025 9:28 AM CST

Associated Case Party: OPTIV SECURITY INC.

| Name             | BarNumber | Email                          | TimestampSubmitted   | Status |
|------------------|-----------|--------------------------------|----------------------|--------|
| Dallas Docketing |           | DallasDocketing@Polsinelli.com | 4/28/2025 8:35:09 AM | SENT   |
| Derek McKee      |           | dmckee@polsinelli.com          | 4/28/2025 8:35:09 AM | SENT   |
| Nikki Vazquez    |           | nvazquez@polsinelli.com        | 4/28/2025 8:35:09 AM | SENT   |
| Robert Hingula   |           | RHingula@Polsinelli.com        | 4/28/2025 8:35:09 AM | SENT   |
| Tiffani Skroch   |           | tskroch@polsinelli.com         | 4/28/2025 8:35:09 AM | SENT   |

Associated Case Party: TERESA ANDRE-HOPPER

| Name        | BarNumber | Email               | TimestampSubmitted   | Status |
|-------------|-----------|---------------------|----------------------|--------|
| Matt Bachop |           | mbachop@ddollaw.com | 4/28/2025 8:35:09 AM | SENT   |



# **EXHIBIT 4**

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### DECLARATION OF STACY NURNBERG

---

I, Stacy Nurnberg, declare as follows:

1. I am over the age of eighteen (18) years and of sound mind to make this *Declaration*. The facts set forth herein are within my personal knowledge, which I have acquired as described herein, and those facts are true and correct.

2. I am the current Senior Manager, Accounts Payable & Payroll for Optiv Security Inc. ("Optiv"). I have served in this role since approximately April 2018. I am an authorized representative of, and custodian of records for, Optiv.

3. In my capacity with Optiv, I am a custodian who has access to Optiv's Payroll records, as the records are maintained by Optiv or its authorized representatives in the regular course of business.

4. Optiv is incorporated under the laws of Delaware. Optiv's principal place of business and corporate headquarters is located at 1144 15th Street, Suite 2900, Denver, Colorado 80202.

5. Optiv does not maintain a physical office within the state of Texas.


6. Optiv does not have any officers or shareholders residing or providing their primary services of directing or controlling the business of Optiv in the state of Texas.

7. **Exhibit 5** is a true and correct copy of Plaintiff Teresa Andre-Hopper's ("Andre-Hopper") W-4 Tax Form which she prepared while employed by Optiv. I am able to verify that this is Andre-Hopper's W-4 Tax Form because Optiv maintains this type of record for its current and former employees as part of its payroll records to ensure proper withholdings and taxes are levied on its employees' compensation.

- a. **Exhibit 5** demonstrates that Andre-Hopper is a resident and citizen of the state of Texas.
  - b. The records were made and kept in the course of regularly conducted business activity, and it is the regular practice of Optiv to maintain personnel and payroll related documents, such as Andre-Hopper's W-4 form, within its systems.
8. The above-referenced exhibit is a record that was created and filled out by an employee of Optiv (Teresa Andre-Hopper) in the regular course of business, with knowledge of the act, event, condition, opinion, that it was recorded, and the records were made as a regular practice at or near the time or reasonably soon after the act, event, condition, opinion, of employment when it was recorded.
9. The above-referenced exhibit is the original or an exact duplicate of the original.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 30<sup>th</sup> day of April, 2025.

DocuSigned by:  
  
637E1289AF11495...  
Stacy Nurnberg

# **EXHIBIT 5**



|   |  |
|---|--|
| <b>Form Year</b>                                  | 2020   |
| <b>Worker</b>                                     | Teresa Andre-Hopper (Terminated) (765160)  |
| <b>First Name and Middle Initial</b>              | Teresa   |
| <b>Last Name</b>                                  | Andre-Hopper   |
| <b>Home Address</b>                               | [REDACTED]   |
| <b>Social Security Number</b>                     | [REDACTED]   |
| <b>Filing Status</b>                              | Married filing jointly (or Qualifying widow(er))   |
| <b>Multiple Jobs or Spouse Works</b>              | Yes<br>Do only one of the following.<br>(a) Use the estimator at <a href="http://www.irs.gov/W4App">www.irs.gov/W4App</a> for most accurate withholding; or<br>(b) Use the Multiple Jobs Worksheet on "view blank form" page 3 and enter the result in line Step 4(c) "Extra Withholding" below for roughly accurate withholding; or<br>(c) If there are only two jobs total, you may check the box above. Do the same on Form W-4 for the other job. This option is accurate for jobs with similar pay; otherwise, more tax than necessary may be withheld<br><br>TIP: To be accurate, submit a 2020 Form W-4 for all other jobs. If you (or your spouse) have self-employment income, including as an independent contractor, use the estimator. |
| <b>Claim Dependents</b>                           | If your income will be \$200,000 or less (\$400,000 or less if married filing jointly):  |
| <b>Number of Qualifying Children Under Age 17</b> | 0  |
| <b>Total Amount for Qualifying Children</b>       | 0.00   |
| <b>Number of Other Dependents</b>                 | 0  |
| <b>Total Amount for Other Dependents</b>          | 0.00   |
| <b>Calculated Total Dependent Amount</b>          | 0.00   |
| <b>Override Total Dependent Amount</b>            | 0.00   |
| <b>Other Adjustments (optional)</b>               | 0.00   |
| <b>Other Income (not from jobs)</b>               | 0.00<br>If you want tax withheld for other income you expect this year that won't have withholding, enter the amount of other income here. This may include interest, dividends, and retirement income.  |
| <b>Deductions</b>                                 | 0.00<br>If you expect to claim deductions other than the standard deduction and want to reduce your withholding, use "view blank form" Deductions Worksheet on page 3 and enter the result.  |
| <b>Extra Withholding</b>                          | 0.00<br>Enter any additional tax you want withheld each pay period.  |
| <b>Exempt</b>                                     | No<br>You had no federal income tax liability in 2019 and you expect to have no federal income tax liability in 2020.<br>Note: By checking the Exempt box you will have no federal taxes withheld.   |
| <b>Nonresident Alien</b>                          | No<br>If you're a nonresident alien, see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing this form.  |
| <b>Employee's Signature</b>                       | Under penalties of perjury, I declare that I have examined this certificate and of the best of my knowledge and belief, it is true, correct, and complete.<br>(Form is not valid unless you sign it).<br><br>Employee's signature was entered electronically on the following date and time:<br>03/25/2020 03:35 PM  |
| <b>Employer's Name</b>                            | Optiv Security Inc.  |
| <b>Employer's Address</b>                         | 1144 15th St #2900<br>Denver, CO 80202   |
| <b>Employer Identification Number (EIN)</b>       | 43-1806449   |



**Last Updated** 03/25/2020 03:35:22.385 PM  
**Last Updated By** Teresa Andre-Hopper (Terminated) (765160)

# **EXHIBIT 6**

DEATS, DURST & OWEN P.L.L.C.

Attorneys & Counselors

8140 N. Mopac Expy,  
Suite IV-250  
Austin TX 78759  
512-474-6200  
512-474-7896 [Fax]

Martha P. Owen  
Matt Bachop  
Manuel Quinto-Pozos  
Sarai King Oza  
Philip Durst [1956-2019]

VIA E-MAIL [REDACTED]

March 6, 2025

Mr. Kevin Lynch  
Chief Executive Officer  
OPTIV SECURITY INC.  
1144 15th Street, Suite 2900  
Denver, CO 80202

RE: Ms. Teresa Andre-Hopper

Dear Mr. Lynch,

This firm is proud to represent Ms. Teresa Andre-Hopper, and I write for several reasons related to Optiv's breaches of her employment agreement. As you probably know, Ms. Andre-Hopper was a dedicated and profitable Senior Client Manager before being forced to resign her position because of sexual harassment and retaliation that she was subjected to by Area Vice President Sean Asbury.

*First*, I write because Optiv has breached the terms of its agreement with my client to pay her commissions on all Approved Sales Orders at the time of her termination. She received a small fraction of the commissions that she is due in June 2023 and has not received any other payment since then, despite invoices being generated for the Approved Sales Orders that Ms. Andre-Hopper was responsible for.

*Second*, I write to give you formal written notice of Ms. Andre-Hopper's breach-of-contract claims under the statute known as Chapter 38 of the Texas Civil Practice & Remedies Code. Pursuant to Chapter 38, if Optiv does not agree within 30 days to pay Ms. Andre-Hopper the \$39,220.79 in commissions that she is owed, then not only can Ms. Andre-Hopper sue Optiv for breaches of the agreement, but she can also sue for and recover all reasonable and necessary attorney fees and expenses in maintaining such a suit, if successful. Such a recovery, of course, would be separate from, and on top of, all of Optiv's legal fees and expenses, which the Company would also have to bear under Texas law.

*Third, and perhaps most importantly*, I write because Ms. Andre-Hopper has asked me to stress that the last thing she wants is to be in any kind of adversarial position with Optiv. As such, I write to see if there is any mutually agreeable way these issues can be resolved. If such a resolution is possible, please have your legal counsel contact me in the next two weeks to see if the wear-and-tear of litigation can be avoided.



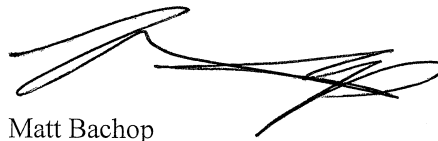
*Optiv Security Inc.*  
*March 6, 2025*  
*Page 2*

*Fourth*, should this matter not settle, (although I trust that this admonition is not necessary) I write to inform you and Optiv, as well as its officers, directors, and employees, that they all have a legal duty to preserve all information that could be relevant to Ms. Andre-Hopper's claims. This information includes, but is not limited to records, notes, memoranda, correspondence, e-mail, text messages, and other electronic messages pertaining to Ms. Andre-Hopper's employment terms, agreement, commissions, and all documents or communications pertaining to the Approved Sales Orders on which Ms. Andre-Hopper is eligible to receive commissions.

In sum, please contact me, or have your legal representative contact me, in the next two weeks if this matter can be resolved. If you have any questions or need any additional information, please let me know. Thanks, and I look forward to hearing from you.

Sincerely,

DEATS, DURST & OWEN, P.L.L.C.

A handwritten signature in black ink, appearing to read 'Matt Bachop', with a stylized, flowing script.

Matt Bachop

c: Ms. Teresa Andre-Hopper

# **EXHIBIT 7**

[Skip to content](#)[About Secretary Griswold](#)[Español](#)

## Summary

### For this Record...

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| Details                                 |   |                       |                     |
|---|---|-----------------------|---------------------|
| <b>Name</b>                             | Optiv Security Inc.                         |                       |                     |
| <b>Status</b>                           | Good Standing                               | <b>Formation date</b> | 09/07/2005          |
| <b>ID number</b>                        | 20051336649                                 | <b>Form</b>           | Foreign Corporation |
| <b>Periodic report month</b>            | September                                   | <b>Jurisdiction</b>   | Delaware            |
| <b>Principal office street address</b>  | 1144 15th St Ste 2900, Denver, CO 80202, US |                       |                     |
| <b>Principal office mailing address</b> | 1144 15th St Ste 2900, Denver, CO 80202, US |                       |                     |

| Registered Agent       |  |
|------------------------|--|
| <b>Name</b>            | Corporation Service Company                    |
| <b>Street address</b>  | 1900 W Littleton Blvd, Littleton, CO 80120, US |
| <b>Mailing address</b> | 1900 W Littleton Blvd, Littleton, CO 80120, US |

[Filing history and documents](#)[Trade names](#)[Get a certificate of good standing](#)[Get certified copies of documents](#)[File a form](#)[Set up secure business filing](#)[Subscribe to email notification](#)[Unsubscribe from email notification](#)[Subscribe to text notification](#)[Unsubscribe from text notification](#)[Back](#)[Terms & conditions](#) | [Accessibility statement](#) | [Browser compatibility](#)